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Cooperation in International Relations: A Comparison of Keohane, Haas and Franck

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This review essay examines three works that address the phenomenon of cooperation in international relations. Two of the books are written by international relations theorists and the third by an international law scholar. Together these works, Robert Keohane's *After Hegemony*[1] Ernst Haas' *Beyond the Nation-State*[2] and Thomas Franck's *The Power of Legitimacy Among Nations*[3], represent three decades of scholarship on core questions of continuing relevance to students of world affairs: What is "cooperation" in international relations? Why do states engage, or not engage, in cooperative behavior? And, what effect, if any, do patterns of cooperative behavior among states in particular issue areas have on the conduct of international relations? Each author's unique analytical focus addresses certain questions more closely than others. Consequently, each makes a markedly different intellectual contribution.

This essay considers whether, and to what extent, we can address these questions more adequately by combining the respective arguments and analytical approaches of Keohane, Haas and Franck. Not since the late 1940's—the heyday of collaboration between international law scholars and international relations specialists—has there been as much interest in aggregation between the two disciplines as is currently displayed by those subscribing to the neoliberal institutionalist research program.[4] Interestingly, Keohane, a political scientist,

1. ROBERT O. KEOHANE, AFTER HEGEMONY: COOPERATION & DISCORD IN THE WORLD POLITICAL ECONOMY (1984) [hereinafter AFTER HEGEMONY].
2. ERNST B. HAAS, BEYOND THE NATION-STATE (1964).
3. THOMAS M. FRANCK, The Power of Legitimacy Among Nations (1990).
4. *See e.g.* Anne-Marie Slaughter Burley, *International Law & International Relations Theory: A Dual Agenda*, 87 AM. J. INT'L L. 205 (1993); Anne-Marie Slaughter, *International Law & International Relations Theory: Building Bridges*, 86 PROC. AM. SOC'Y INT'L L PROC. 167 (1992); Kenneth W. Abbott, *Modern International Relations Theory: A Prospectus for International Lawyers*, 14 YALE J. INT'L L. 335 (1989) [hereinafter *Modern International Relations Theory*].

The neoliberal institutionalist research program includes scholars from international relations and international law who study the impact of institutions on international relations, with "institutions" generally understood as agreed sets of transnational rules and practices that constrain behavior and shape expectations of international actors. Under this definition, institutions will be more or less robust, and may or may not take an organizational form. *See infra* note 6 (for a definition of interna-

222

and Franck, a legal scholar, two leading figures in this effort, frame their respective analyses around essentially *the same question:* i.e., *how does one explain instances of international rules being habitually obeyed by states in an anarchical society?* Keohane's chief theoretical purpose in *After Hegemony* is explanatory, his purpose being to articulate why states follow rules under certain conditions and not others. In contrast, Franck's interest in *The Power of Legitimacy Among Nations* essentially provides a pre-theoretical prescriptive argument for why states ought to comply with international law. While their works may be complementary in certain respects, a comparative analysis of these authors reveals that merely asking the same question does not necessarily provide an adequately solid starting point to engage in the ambitious aggregation exercises that neoliberal institutionalists aim for. This essay explores why this is so, and considers what this example may reveal about the general problems of attempting to integrate intellectual efforts that have very different substantive goals.

This essay asks a second comparative question, namely how the insights from Haas' neo-functionalist theory of international integration developed in *Beyond the Nation-State* relate to the current research interests of the neoliberal institutionalists, as represented by Keohane's work. In his pioneering study of the International Labor Organization (ILO), Haas developed a theoretical framework for examining whether there is a causal relationship between the behavior of international organizations and the phenomenon of systemic change in international relations. *Beyond the Nation-State* is a classic work among the body of political science literature that focuses on the attributes and functions of formal international organizations.[5] In contrast, Keohane's *After Hegemony* stands as an important work in the more recent political science literature on international regimes. Regime theorists understand terms such as "international institutions" or "regimes" in a more informal organizational sense; that is, as rules of the

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tional institutions by Oran R. Young which links this definition of "international institutions" to regime theory). In AFTER HEGEMONY, Keohane contrasts neoliberal institutionalism with what he terms the "Institutionalist tradition" in international relations. Keohane associates the Institutionalist tradition with a more sanguine stream of international relations scholarship that takes the phenomenon of cooperation among states as a necessary, and hence natural, element of inter-state affairs. *See generally* KEOHANE, *surpa* note 2. In contrast, neoliberal institutionalists tend to view cooperation in international relations as a problematique requiring explanation; and hence, the goal of policy-science oriented neoliberal institutionalism is to develop theories that will enhance the prospects for cooperation. *See also* JOHN G. RUGGIE, MULTILATERALISM MATTERS: THE THEORY & PRAXIS OF AN INSTITUTION (1993); ORAN R. YOUNG, INTERNATIONAL GOVERNANCE: PROTECTING THE ENVIRONMENT IN A STATELESS SOCIETY, (1994) [hereinafter INTERNATIONAL GOVERNANCE]; INSTITUTIONS FOR THE EARTH (PETER M. HAAS, et al. eds., 1993); FRIEDRICH V. KRATOCHWIL, RULES, NORMS & DECISIONS: ON THE CONDITIONS OF PRACTICAL & LEGAL REASONING IN INTERNATIONAL RELATIONS & DOMESTIC AFFAIRS (1993); ROBERT O. KEOHANE, INTERNATIONAL INSTITUTIONS & STATE POWER: ESSAYS IN INTERNATIONAL RELATIONS THEORY 1-20 (1989) [hereinafter INTERNATIONAL INSTITUTIONS AND STATE POWER].

5. International relations scholars use the term "formal international organization" to refer to material entities (i.e. bureaucracies) like the organizations and specialized agencies that make up the United Nations system, which possess offices, personnel, budgets, and often, legal personality. *See, e.g.,* YOUNG, INTERNATIONAL GOVERNANCE 3 (drawing the distinction between international "organizations" and "institutions," where the latter is associated with more informal patterns of rule-governed behavior among states.)

game, codes of conduct, or patterns of agreed social practice among state and nonstate actors.[6] While regime theory has not traditionally focused on formal international organizations, regime theorists from a variety of theoretical perspectives are now interested in studying how formal international organizations shape the individual and collective behavior of international actors.[7] Thus, given the resurgence of interest in the role of formal international organizations, the question arises whether students of regime theory can benefit in any way from the earlier political science literature on international organization. This essay takes up this question by revisiting Haas' earlier work on the ILO in connection with Keohane's analysis of cooperation in more informal institutional settings.

The following presents each author's argument, theoretical purpose and methodology, in order to develop a framework for the comparative analysis of these three books. At the outset, it is important to note that the three works approach the issue of international cooperation from different vantage points within the "level of analysis" analytic schema widely used in international relations literature.[8] The "level of analysis" schema groups approaches to international relations into three broad categories: "third level," those that focus on the structure of the state system; "second level," those that focus on the actions of states; and "first level," those that focus on the attitudes and behavior of individuals within states. Although he is keenly interested in integrating a state unit level explanation into his theory to enrich his system level analysis, Keohane focuses primarily on the international system-level explanation of state behavior. Haas, on the other hand, mainly concentrates on the state-unit-level in his effort to develop a theoretical framework for understanding how change occurs in the international system. And while Franck does not specifically frame his analysis within the level of analysis schema, his work can be understood as an attempt to develop an individual-level account of state compliance with their commitments under international law. As the comparative section of this essay will show, the extent to which the authors address the problem of cooperation from these dif-

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6. This notion of regimes is drawn from the definition of "international institutions" developed by Oran Young in INTERNATIONAL GOVERNANCE. Young draws together many of the central features that theorists, such as Keohane, have attributed to regimes in his definition of "international institutions" as "sets of the rules of the game or codes of conduct to define social practices, assign roles to the participants in these practices, and guide the interactions among the occupants of these roles." *Id.* For a literature review of regime theory see Stephan Haggard and Beth A. Simmons, "Theories of International Regimes," 4 INTERNATIONAL ORGANIZATION 491-517 (1987); *see also* Volker Rittberger, ed., REGIME THEORY AND INTERNATIONAL RELATIONS (1993).

7. *Id.* at 9-11; KEOHANE, INTERNATIONAL INSTITUTIONS AND STATE POWER 15; KRATOCHWIL, *supra* note 5, at 260.

8. The "level of analysis" schema was adopted by Kenneth N. Waltz. KENNETH N. WALTZ, MAN, THE STATE & WAR: A THEORETICAL ANALYSIS 12 (1959). Waltz categorized the responses of political philosophers to the question "where are the major causes of war to be found?" He grouped the responses under three headings: "within man, within the structure of separate states, within the state system." Waltz termed these three perspectives the first, second, and third "images" of international relations. *Id. See also* J. David Singer, *The Level-of-Analysis Problem in International Relations, in* THE INTERNATIONAL SYSTEM: THEORETICAL ESSAYS 77-92 (Klaus Knorr & Sidney Verba eds., 1961).

ferent levels of analysis becomes a significant factor when considering the works' aggregative potential.

Aggregation is the process through which international relations theorists attempt to bring together the insights of authors working from different vantage points within the level of analysis schema. The aggregative exercises these scholars engage in can be more or less ambitious in nature. The comparative section of this essay considers two such exercises, "bridging" between theories and "adding" theories together.[9] The term "bridging" connotes an effort to connect theories focused on different levels of analysis so that explanations or predictions aimed at one level of analysis can be further illuminated with examples taken from a different level of analysis. "Adding" theories together is a slightly more ambitious exercise because the goal here is to present a core theoretical concept that enables a theorist to combine into a single epistemological claim theories drawn from more than one level of analysis. In comparing the works, this essay will first attempt to bridge the respective theories of the three authors, with particular emphasis on Keohane and Franck. Next, the essay will examine whether Keohane's and Haas' theories can be added together using "international community" as a core theoretical concept to encompass both authors' work.

ROBERT KEOHANE AND THE "FUNCTIONAL THEORY OF REGIMES"

After Hegemony stands as an early work of the neoliberal institutionalist research program. As the title suggests, *After Hegemony* focuses on the question of why cooperation sometimes persists among states in the absence of a hegemon. Keohane's central argument is that cooperation can under certain conditions develop on the basis of pre-existing complementary interests among states. While he uses microeconomic theory of cooperation to explore economic cooperation among states, Keohane believes his theory has relevance to other areas of international relations.[10] He focuses on the economic relations among advanced market-economies where he believes common interests are greatest and the benefits of international cooperation the easiest to realize. Keohane does welcome, however, careful extension of his argument into other substantive areas, such as security affairs and North-South relations.[11]

The theoretical purpose of *After Hegemony* is two-fold, displaying Keohane's desire to make both a substantive and a methodological contribution to theory building. First, Keohane's substantive purpose is an instrumental one. While his primary interest is explanatory, the analysis is carried out in the hope that more effective policy science will result from a better understanding of the

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9. The concepts of "bridging" and "adding" international relations theories as used in this essay are based on verbal communication with Ernst B. Haas, November 1995.

10. KEOHANE, *supra* note 1, at 22 (emphasizing the development of a "functional theory of cooperation" in the world political economy.) However, Keohane notes that "In the real world of international relations, most significant issues are simultaneously political and economic." *Id.*

11. *Id.* at 7 (using the term "North-South relations" to refer to relations between developed and developing countries).

conditions under which interstate cooperation is likely to emerge. By "diagnosing" the reasons for the failures of advanced market economies to cooperate in the world political economy, he hopes to improve our ability to "prescribe" remedies.[12] Keohane explicitly addresses the relationship between his normative commitments and theoretical interest here. His mild prescriptive interest derives from his belief that international cooperation is a "good" that policymakers should strive to increase because it creates the potential for the realization of joint gains among states.[13] However, he adds the caveat that the procedural merits of cooperation must also be evaluated in terms of the substantive ends to be achieved.[14]

Keohane's second and more methodological purpose is to bring together the insights of the two traditionally dominant schools of international relations theory, which Keohane labels "Realist" and "Institutionalist". In Keohane's portrayal, Realists see international relations through a Hobbesian lens, in which world politics is compared to a "state of war."[15] States compete with each other for power and influence, and the international system remains anarchic due to the lack of an authoritative government that can enact and enforce rules of behavior. Under this Realist interpretation, the prevailing discord results from fundamental conflicts between the interests of states in a condition of anarchy. Moreover, Realists deny altogether the importance of transnational norms and rule structures as causal factors in state behavior. Instead, they perceive such norms and rule structures as epiphenomenal, merely reflecting the interests of powerful states.[16]

At the other extreme, the "Institutionalist" tradition asserts that shared economic interests create a "harmony of interests" among states which in turn generate a demand for international institutions and rules that states will voluntarily agree to follow.[17] Keohane has an affinity for the Institutionalist belief in the possibility of cooperation among states. However, this affinity is not based on

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12. *Id.* at 6.
13. *Id.* at 10.
14. *Id.* at 10-11, 247-52 (discussing regimes and the ethical value of cooperation.)
15. *Id.* at 7; *see also* THOMAS HOBBES, LEVIATHAN 90 (1991).
16. Keohane's discussion of Realism is targeted primarily at the "Structural Realists." Structural Realists, the leading example of whom is KENNETH N. WALTZ, THEORY OF INTERNATIONAL POLITICS (1979) (believing that it is the anarchic *structure* of international relations as a system of sovereign nation-states endowed with unequal power that determines how states behave). But, a separate Realist tradition is "English school," most associated with the writings of the late HEDLEY BULL, THE Anarchical Society (1977) (contrasting the notion of an "international system," the mere interaction of states premised solely on the calculations of how other states may behave, with an "international society," in which a group of states perceive themselves bound by a set of rules of coexistence in their relations with one another). The notion of norms and rule structures is central to Bull's theory because they become markers for determining the extent to which international relations has developed from a "system of states" to an "international society". *See also* Barry Buzan, *From International System to International Society: Structural Realism & Regime Theory Meet the English School*, 47 INTERNATIONAL ORGANIZATION 327-52 (1993).
17. KEOHANE, *supra* note 1, at 7-9, 51-53 (offering the work of David Mitrany as an example of the type of "Institutionalism" he means to enrich with his theory of "functional cooperation.") For a critique of Mitrany's theory of international integration see this essay's discussion of ERNST B. HAAS' BEYONG THE NATION-STATE.

wishful-thinking or a "harmony of interests" logic; rather, his argument is premised on what he sees as solid empirical evidence of cooperation among states in modern international relations.[18]

Although Keohane asserts that his central arguments draw more heavily from the Institutionalist than the Realist tradition, he believes that Institutionalist theories have been historically naive about the determinants of power and interest in international relations. Thus, the bulk of Keohane's theoretical presentation is an attempt to develop a theory that explains the importance of institutions using Realist assumptions about the structure of international relations. His goal is to demonstrate that Realist assumptions about world politics, which cast states as rational egoists, are consistent with the Institutionalist insights on how rules and principles promote cooperation among states. In his view, the prevailing Realist approach (hegemonic stability theory) does not adequately explain the phenomenon of cooperation in international relations.[19] He critiques hegemonic stability theories in order to develop an approach that provides a more complete explanation of international cooperation. His is not an effort to refute Realist logic concerning the determinants of interest and distribution of power among states in a condition of anarchy. Rather, Keohane's purpose is to introduce the institutional context of state action that is left out of Realist analysis.

In the process of building his "functional theory of regimes," Keohane changes the meanings of certain concepts central to Realist theory, both to highlight the limits of conventional Realist usage and to articulate concepts that have greater explanatory power. Keohane's analysis begins with certain assumptions shared with Realists that (1) the international system is composed of states that are egoistic, i.e. self-interested, rational actors who wish to maximize their wealth and power; and (2) the international system is a condition of anarchy, i.e. a system of decentralized authority. However, as an aspect of theory building, Keohane later relaxes one of the key assumptions of the Realist approach—namely that states are egoistic utility maximizers seeking to maximize their short-term gains—to see how this change in premises affects his theory of regimes. Keohane believes that a study of the postwar world political economy justifies this relaxation of the Realist assumption of state egoism, since it demonstrates that states do sometimes take a broader view of self-interest, including the long-term joint gains resulting from participation in a rule structure.

For Keohane, the concept of "hegemony" is important as a descriptive term; and not just a concept that explains outcomes in terms of power, the role it plays in Realist theory. He notes that the "crude theory of hegemonic stability"

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18.   *Id.* at 7, 135-240. To support his position, Keohane cites patterns of cooperation in the modern era on issues as diverse as trade, health, telecommunications, and environmental protection. And, his lengthy analysis of the U.S. experience as hegemon in the post World War II world political economy is meant to show that, even in a period of hegemonic decline, states may continue to engage in cooperative behavior. *Id.*

19.   For a presentation of hegemonic stability theory, *see* ROBERT GILPIN, WAR & CHANGE IN INTERNATIONAL POLITICS (1981); *see also* CHARLES KINDLEBERGER, A WORLD IN DEPRESSION (1973) (linking the stability of the world economy to unilateral leadership by a dominant power).

defines "hegemony" as a preponderance of material resources.[20] This theory's "basic force model" is meant as a predictive theory, positing that the more a hegemonic power dominates the world political economy, the more cooperative interstate relations will be. Keohane rejects this formulation of hegemonic stability because it does not account for patterns of cooperation that persist in periods of hegemonic decline or in situations where there is no hegemon. Instead, he adopts a "refined hegemonic stability theory," which identifies a "hegemon" as a state powerful enough to maintain the essential rules governing interstate relations and having the willingness to do so.[21] For Keohane, this refined version of the hegemony theory retains the emphasis on power in international relations, but looks more seriously at the internal characteristics of the strong state.[22] This latter theoretical concern is one of the main reasons for his interest in bringing a second-level analysis into his systemic theory.

Keohane's "functional theory of regimes" is meant to explain why patterns of rule-guided policy coordination emerge, maintain themselves, and decay in the world political economy. He terms the theory "functional" because it is the beneficial effect of rules that is the causal agent that *explains* why rule-governed cooperative behavior emerges.[23] Institutions contribute to cooperation not by imposing rules that states must follow, but by changing the context within which states make decisions based on self-interest. He defines "cooperation" in a deliberately unconventional way.[24] "Cooperation," which Keohane considers a highly political concept, is contrasted with "discord" and distinguished from "harmony," an apolitical concept in his theory. Cooperation often requires parties to engage in negotiations to achieve "mutual adjustment" of behavior, a process distinguished from "harmony," which he likens to "the mere fact of common interests."[25] Keohane asserts that this distinction between cooperation and harmony is necessary since discord may prevail even where common interests exist. Cooperation, thus, cannot simply be seen as a function of common interests; it becomes instead a potential goal for states.

To develop his theory, Keohane uses a combination of game theoretic logic, rational choice theory and economic metaphors. A self-styled "rationalist" student of international institutions,[26] Keohane brings these analytical de-

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20. Keohane, *supra* note 1, at 32.
21. *Id.* at 34-35.
22. *Id.* at 35.
23. *Id.* at 80.
24. *Id.* at 12, 51-57.
25. *Id.* at 12.
26. AFTER HEGEMONY is representative of a body of literature that Keohane has elsewhere labeled as the "rationalist" approach to the study of international institutions. KEOHANE, INTERNATIONAL INSTITUTIONS & STATE POWER, *supra* note 4, at 158-79 (distinguishing between "rationalist" and "reflectivist" approaches; the central distinction between the two approaches being that rationalists see institutions as *mirroring* actor interests while reflectivists believe that institutions can also play a role in *shaping* or *changing* actor interests.) *See also* ROBERT AXELROD, THE EVOLUTION OF COOPERATION (1981); ARTHUR STEIN, WHY NATIONS COOPERATE (1990) (citing examples of other "rationalists" international relations theorists writing on institutions). Theorists in the "reflectivist" school, variously labeled "critical" or "constructivist," include John G. Ruggie, Alexander Wendt, Friedrich V. Kratochwil, and Nicholas Onuf.

vices to bear in his effort to explain why states may at times take a broader view of their self-interest, sometimes calculating their self-interest in terms of the long-term joint gains that may result from participation in a rule structure. He shows how game theory, in particular the Prisoners' Dilemma, and collective goods theory demonstrate the possibility of "the emergence of cooperation among egoists" even in the absence of a common government.[27]

The extent of such cooperation will depend on the existence of international "institutions" or "regimes," broadly defined as "recognized patterns of practice around which expectations converge."[28] Using microeconomic metaphors, Keohane depicts international relations operating much like an "imperfect market," in which the "transaction costs" for states, in a conflict ridden self-help system, are generally too high to strike bargains to realize joint gains.[29] Regimes "empower" governments by creating decision-making environments that decrease uncertainty and increase information, thereby making it possible for governments to overcome "market failures" and enter into mutually beneficial agreements even in the absence of a hegemon.[30]

In terms of the level of analysis problem, the explanatory force of his theory is primarily directed at the systemic level, or the "third image."[31] The analysis begins, and essentially remains, at this level of analysis due to the belief that the behavior of states, as well as of other actors, is strongly affected by the constraints that exist in the international environment, particularly the relative power distribution among states. Moreover, because one of his main methodological objectives is showing that Realist assumptions regarding systemic level constraints on states in a condition of anarchy do not preclude the emergence of cooperative behavior, Keohane's theory building approach necessarily gives pride of place to the third image. However, Keohane also distinguishes his use of a systemic "outside-in" approach from "Structural Realism."[32] Unlike the latter, his approach emphasizes the effects that state activity has, through the operation of international regimes, at the systemic level in terms of altering the information and opportunities available to governments. Moreover, Keohane also differs from the Realists in his concern with a state-unit level, i.e., second image analysis, which accounts for the effects of domestic institutions and leadership patterns on state behavior at the international level.

Given his belief that a state actor's participation in regimes can help it develop an appreciation of rule-guided behavior, Keohane's theory is in a mild

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27. KEOHANE, *supra* note 1, at 65-84.
28. Id. 8-9, 57-64. In AFTER HEGEMONY, Keohane works with an influential consensual definition of "regimes" presented by Stephen Krasner. KRASNER, INTERNATIONAL REGIMES 2 (1983). For Krasner, "regimes" are "sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations." *Id.*
29. KEOHANE, *supra* note 1, at 85-109. In this chapter, "A Functional Theory of International Regimes," Keohane applies the economic concepts of "imperfect market," "transaction costs," and "market failure" to international relations. *Id.*
30. *Id.*
31. *Id.* at 26.
32. *Id.*; *see also supra* note 16.

sense evolutionary. The theory does not consider whether the parameters of the international system change as a result of the operation of regimes. Nor does Keohane directly address the issue of whether states *learn* from their participation in regimes that cooperative behavior is preferable to non-cooperative behavior.[33] Rather the theory concentrates on the possibility of states becoming aware that, through the development of cooperative strategies, life within the existing structure of the international system is more bearable.[34]

Keohane adopts an avowed positivist methodology in constructing his "functional theory of regimes."[35] The second half of *After Hegemony* is devoted to presenting historical evidence from the experience of post-1945 world economy to "falsify" the predictions of the "crude theory" of hegemonic stability. Next, his own theory "predicts" that even in a post-hegemonic world, states may choose under certain conditions to form international regimes for mutual benefit. Further, he notes the particular conditions under which his theory would be falsified. For example, where states adopt "beggar thy neighbor" economic strategies instead of cooperative ones in a post-hegemonic era.

ERNST HAAS AND THE "NEO-FUNCTIONALIST THEORY OF INTEGRATION"

Beyond the Nation-State critiques Functionalist international integration theory.[36] Functionalist theory predicts that international conflict will decrease as states promote human welfare. As articulated by David Mitrany, one of the school's most influential exponents, Functionalists identify human welfare needs as presenting the "technical" and "noncontroversial" aspects of government action, i.e. areas such as labor, health, communications, transportation, that exist outside the political realm on both the national and international level. As "international integration" (the process of increasing the interaction and mingling of national environments) proceeds in these technical areas, a spill-over effect will occur from the non-political to the political realm, as states come to replace "national loyalty" with "international loyalty."[37] The end point of this evolution will be the development of a political community at the international level premised on the coordination of national policies aimed at promoting human welfare.

Haas' critique is meant to "refine" the Functionalist approach, rather than abandon it altogether.[38] His work places him firmly within a pragmatist epistemology; for his interest is not in formally "testing" Functionalist theory, but in

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33. *Id.* at 131-32
34. *Id.*
35. *Id.* at 10, 217-219.
36. Haas summarizes and critiques the major tenents of Functionalism presented in this paragraph. *See* HAAS, *supra* note 2. Note that "functionalist integration theory" is distinct from Keohane's "functional theory of regimes," and is more related to the Institutionalist tradition in international relations cited by Keohane. For a classic statement of functionalist integration *see* DAVID MITRANY, A WORKING PEACE SYSTEM: AN ARGUMENT FOR THE FURTHER DEVELOPMENT OF INTERNATIONAL ORGANIZATION (4th ed., 1946).
37. *Id.* at 29. Haas presents this self-consciously limited defintion of 'international integration.'
38. *See id.* at 26-50 ("Functionalism Refined").

judging retrospectively the extent to which the theory provides an illuminating account of the role that international organization has played in the process of international systemic change. That Haas develops his Neo-functionalist theory in the spirit of repair raises the question of why he thinks the Functionalist approach is useful in some respects and misguided in others. He decidedly does not share with the Functionalists' their strong prescriptive theoretical intent, an intent he deems "central" to Functionalist theory.[39] But, Haas is intrigued by Functionalist insights concerning the key role of welfare expectations and the trend toward technocracy in national and international politics. He believes that Functionalism offers a "body of propositions" that more nearly maps out the problem area of systemic change in international relations than any other theoretical approach in existence at the time of his research.[40]

Haas' interest in understanding the processes of systemic change in international relations leads him to develop what he terms the "outline" of an eclectic theory of integration, one that draws on pre-behavioral and behavioral political theory, sociology, and systems theory.[41] Haas uses insights from these various intellectual sources to develop a "model" of an ideal type of international organization through which integration as predicted by Functionalist theory would take place.[42] He uses the International Labor Organization (ILO) as a case study because it closely fits the requisites of the model. That is, the ILO focus is on improving labor conditions in member-states through the development of international standards. Secondly, technocrats play a central role in carrying out these "tasks"; and lastly, experts and voluntary associations participate as well as state actors.

Haas believes that Mitrany's Functionalist theory would predict that the ILO would be effective as an autonomous force for international integration. Contrary to this prediction, however, Haas concludes that in the forty-five year period of the ILO under review, from its inception in 1919 to 1963, the organization's program has not markedly influenced the international system. Haas, however, has a deeper interest than simply exposing the shortcomings of Functionalist theory. His effort has important implications in terms of future theory building since it highlights previously ignored variables responsible for systemic change in international relations.

The substantive theoretical aims underlying Haas' Neo-functionalism differ from the Functionalist aims in two key respects. First, Haas believes that international integration theory should account for integration that results from both unintended as well as intended consequences of actions unlike Functionalist theory which emphasizes the ineluctable, "automatic" process of spill-over from the technical to the political. Haas' Neo-functionalism also calls attention to

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39. Haas notes that "Functionalists claim to possess a theoretical apparatus capable of analyzing existing society and pinpointing the causes of its undesirable aspects; they claim further, to know the way in which a normatively superior state of affairs can be created. Such, however, is not my theoretical intent." HAAS, *supra* note 2, at 7.

40. *Id.* at 82.

41. *Id.* at viii-ix.

42. *Id.* at viii.

integration resulting from intended consequences, and illustrates his normative commitment to the role of human agency in international relations and his belief that states can learn to revise their demands and seek new ways of satisfying them without destroying themselves in the process.[43] It is partly due to this normative commitment, in which actors are able to "intervene creatively " in the workings of the international system, that Haas shows aspects of being a first image thinker despite his primary concern with giving a state-unit-level account.[44]

A second difference between Haas and the traditional Functionalists is that Haas is as interested in explaining how and why *disintegration* occurs in international relations as he is in explaining the processes of integration. The strong prescriptive element of Functionalism leaves the theory blind to what Haas sees as a critical aspect of the process of systemic change: the recurrent interaction between national systems and international institutions. For Haas, system transformation should be studied from a perspective that takes into consideration the "feedbacks" between the policy outputs of international organizations and the reactions of states, which may in turn lead to the development of new tasks or purposes for the organization or to a retrenchment of states.

Systems theory is central to Haas' methodology.[45] He uses it heuristically to study the dynamic interaction between governments and voluntary associations that generate systemic change in international relations, and to identify a set of relationships among the actors. His chief interest is in studying the "environment" of the international system that manifests the interplay between the third image, international politics, and the second image, domestic politics. The relationships that define a given "system" are the patterns of inputs and outputs that prevail during a particular period. "System transformation" occurs when a new set of relationships develops among the actors.

Haas' use of systems analysis to develop a theoretical framework has much in common with current constructivist theories of international relations. There is an interesting parallel, for example, with current constructivist uses of structuration theory.[46] In *Beyond the Nation-State*, Haas studies the net impact of

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43. *Id.* at 81.

44. *Id.*

45. *Id.* at 77-79. This section sets out the general definitions Haas uses in setting up his systems analysis. He adopts the following definitions: "actors" are governments and voluntary associations; the "environment" encompasses the beliefs, institutions, goals, and capacities of the actors (however, international organizations do not contribute to the environment because he believes they have little independent capacity); "inputs into the System" are governmental policies emanating from the environment, and "outputs from the System" are the collective decisions of the actors. Importantly for Haas, the outputs may feed back into and ultimately transform the environment.

46. Constructivist international relations theorists draw heavily from Anthony Giddens theory of structuration. *See e.g.* Alexander Wendt, *Anarchy is What States Make of It: The Social Construction of Power Politics*, 46 INTERNATIONAL ORGANIZATION 391-425 (1992); NICHOLAS ONUF, A WORLD OF OUR MAKING: RULES & RULE IN SOCIAL THEORY & INTERNATIONAL RELATIONS (1989). Constructivists argue against perceiving international relations exclusively from either a systemic level perspective (top-down) or a state unit level or individual level perspective (bottom-up). Instead, constructivists, such as Haas in BEYOND THE NATION-STATE and in his more recent writings, are intrigued by how the interplay between these various levels of international relations can operate

the interaction of the ILO (the structure) and the international environment (actor's perceptions of interests). In doing so, he attempts to identify a causal pathway of systemic change that has greater explanatory power than either an exclusively system level "top-down" or an unit level "bottom-up" approach. Haas thus appears to be anticipating his later interest in studying the agent-structure problem in international relations.[47]

THOMAS FRANCK AND THE "THEORY OF RULE-LEGITIMACY"

John Austin, the nineteenth century English legal positivist, developed the "command theory of law," in which law is defined as orders backed by threats enforced by a sovereign. As a corollary to his general legal theory, Austin indicted international law as not "law" but "positive morality," due to his belief that no binding source of legal obligation could exist in a society composed of independent sovereigns.[48] In *The Power of Legitimacy Among Nations,* Franck accepts Austin's skeptical thesis regarding international "law," long influential among Realists, as a starting point to consider what he views as a central puzzle in international relations—explaining how and why international rules come to be habitually obeyed by states despite the absence of a world government and a global coercive power.[49]

For Franck, the international arena presents a unique "laboratory" for determining the conditions under which the subjects of law feel a voluntary "pull towards compliance" with legal rules. Franck asserts that the characteristic feature of the international legal system is general obedience to rules by members of the "international system" (i.e. states, international organizations, and non-governmental entities) despite the absence of coercive enforcement mechanisms.[50] Like Keohane in *After Hegemony,* Franck's examples of general habitual obedience to international rules are largely drawn from the more mundane, yet vital, aspects of global life such as reliable international mail service, air transport, and commerce. He also notes one example where a powerful state, the U.S., chose to act in accordance with international law on an issue of military significance when violating the norm would have more directly served its immediate national interest.[51] This latter example is especially significant for

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to generate change in the behavior of international actors, and potentially change in the structure of the international system itself.

47. *See e.g.* ERNST B. HAAS, WHEN KNOWLEDGE IS POWER: THREE MODELS OF CHANGE IN INTERNATIONAL ORGANIZATIONS (1990).

48. *See* JOHN AUSTIN, THE PROVINCE OF JURISPRUDENCE DETERMINED, LECTURES I & V (1832). Austin chose the term "positive morality" because he felt international law was determined in accordance with the general opinion of the international community, with duties backed by moral sanctions, rather than threats by a sovereign.

49. FRANCK, *supra* note 3, at 16, 21-25.

50. *Id.* at 16

51. *Id.* at 3-5 (recounting an example, in 1988, where the U.S. Navy, while protecting vessels in the Persian Gulf, allowed a ship with Chinese-made silk worm missiles to deliver cargo en route to Iran. Franck asserts that this incident illustrates that the U.S. deferred to international law, instead of engaging in an aggressive naval blockade that would have furthered its immediate military interest).

Franck because it indicates a desire on the part of states, strong as well as weak, to belong to a community premised on "the rule of law."[52]

His approach uses philosophical concepts usually applied when considering the basis of individual political obligation at the national level to explain why states as "individuals" feel obligated to comply with particular rules. He acknowledges an intellectual debt to classical political theorists as well as 20th century legal thinkers, particularly Max Weber, H.L.A. Hart, and Ronald Dworkin. In addition, Franck's approach makes use of concepts drawn from positivist social science methodology. This positivist influence is particularly evident in the book's opening chapter, where Franck puts forward the hypothesis that states obey rules because they perceive rules to have a high degree of legitimacy. In so doing, Franck specifies that "legitimacy" is the independent variable in his theory, with state compliance with international rules being the dependent variable.[53]

Although *The Power of Legitimacy Among Nations* contains a passing disclaimer of intellectual modesty as a work presented in the spirit of "speculative inquiry," the bulk of Franck's text is devoted to developing a "taxonomy of legitimacy" to *explain* why international law generates a sense of obligation.[54] He notes that his theoretical effort is a lawyer's inquiry into what are fundamentally sociological, anthropological, and political questions; i.e., what promotes the formation of communities and what imbues members of a community with the will to live by the rules?[55] However, couching his work as a pre-theoretical exploration or a lawyer's exercise does not obscure a problematic aspect of Franck's social scientific effort. Despite Franck's analytical aspirations, the end product of his work does not bring us closer to having an explanatory theory of rule-legitimacy in international relations. Rather, we are left with a creative and, at times, thought-provoking work of ideological prescription.

From the outset, Franck takes for granted, almost as an axiom, that law affects behavior and that those normatively addressed (including states) can develop an "internal point of view" toward the law.[56] He builds his analysis on the belief that individuals can perceive themselves as participants *in*, as almost a part of, a legal system. He defines legitimacy as the "property of a rule or rule-making institution which itself exerts a normative pull toward compliance on those addressed due to their belief that the rule or institution has come into being and operates in accordance with generally accepted principles of right process.[57] Franck is most concerned with presenting a theoretical approach that identifies

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52. *Id.* at 4-12; *see also* LOU FULLER, THE MORALITY OF THE LAW (1969) (an engaging discussion of "the rule of law," as a concept championing procedural fairness, akin to Franck's use of the term).

53. *Id.* at 25.

54. *Id.* at 207.

55. *Id.* at. 50-51.

56. H.L.A. HART, THE CONCEPT OF LAW 89, 96 (1st ed., 1960) (discussing the development of the notion of an "internal point of view" toward law, in which participants in a legal order use legal rules as standards of criticism or justification for their own or others' behavior).

57. *See id.* at 24.

those features of law that enhance a rule's "compliance pull."[58] His normative commitment to enhancing the prospects for rule-governed behavior by states clearly drives his theoretical project. However, he does also offer an objective justification for this analytical starting point by using recent historical evidence of an anecdotal variety to support his thesis that international law does exert a "compliance pull" on policymakers.

Franck identifies four "objective" indicators of legitimacy: (1) "determinacy", relating to rule clarity; (2) "symbolic validation", specifying the anthropological dimension of rules; (3) "coherence", concerning the internal connectedness of the overall rule structure; and (4) "adherence", which signifies the degree to which rules add up to a legal "system".[59] The notion of an emergent rule-governed community of independent states based on an evolving perception of rule-legitimacy among states is central to Franck's inquiry. In discussing the connection between "community" and "legitimacy," Franck emphasizes the underlying legal norm of respect for the sovereign equality of states as the link between the two concepts.

Franck's theory of "rule-legitimacy," however, is inadequate as an explanatory social science theory.[60] It is not presented in a way that allows for any type of "truth test" on the issue of whether legitimacy is the causal agent in state compliance with international law. To erect an explanatory theory Franck would have to: (1) identify the features of a particular rule before he knew whether it had been complied with; (2) determine how much "legitimacy" the rule has according to the four specified indicators; (3) determine how much compliance with the rule there is among states; and (4) identify the features of the rule that are correlated with and in fact cause state compliance.

An additional problem with Franck's approach from an international relations theory standpoint is that it is difficult, if not impossible, to determine what level of analysis Franck's inquiry addresses, or whether he means to address all three levels. It appears that he is interested in a systemic level analysis in his discussion of how the enhanced legitimacy of international rules exerts a pull towards compliance on the part of states, and thus leads to the development of an international community premised on the rule of law. Yet, in applying his rule-legitimacy approach, one must be concerned with the unit-level (i.e. state) analysis given that what makes a rule more or less legitimate depends funda-

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58. *Id.* at 43 (using the term "compliance pull" as being synonymous with a rule's legitimacy).

59. *Id.* at 49 (introducing the four indicators of his concept of rule-legitimacy). The POWER OF LEGITIMACY AMONG NATIONS contains separate chapters elaborating on these four factors. *See also generally* THOMAS FRANCK, FAIRNESS IN INTERNATIONAL LAW & INSTITUTIONS (1995)(the most recent restatement by Franck of his concept).

60. *See* GARY KING, ROBERT O. KEOHANE & SIDNEY VERBA, *The Science in Social Science, in* DESIGNING SOCIAL INQUIRY: SCIENTIFIC INFERENCE IN QUALITATIVE RESEARCH 1-33 (1994); MARTIN HOLLIS & STEVE SMITH, EXPLAINING & UNDERSTANDING INTERNATIONAL RELATIONS 51-67 (1990); ABBOTT, *supra* note 4, at 353. Employing positivist social scientific precepts, these works discuss what it means to "think like a social scientist" as opposed to "thinking like a lawyer" in developing causal explanations in international relations. Chief among the criteria cited by these authors is whether a theory to a 'truth test,' that is whether it is capable of being falsified by new information. If the asserted explanatory theory is not amenable to falsification, the concern arises that the theory's conclusions rest on the personal assertions and beliefs of the theorist, rather than on observable data.

mentally on the state actors' perspectives. This latter point highlights a particular weakness of Franck's methodology—the state is "black-boxed" throughout his work.[61] Thus, he offers no rigorous way of determining how, or indeed whether, states actually develop a type of Hartian "internal point of view" towards international law. To achieve insight on this point, Franck would also have to engage in a first-level analysis, and incorporate some type of bureaucratic decisionmaking theory into his analysis in order to explore how states domestically form their policies in response to international norms.

COMPARISON

Theory and Ideology

Keohane's *After Hegemony* and Haas' *Beyond the Nation-State* are examples of efforts to construct social science theory.[62] While causation plays a different role in their respective theories, their approaches share certain attributes that make their works "theoretical." Both are self-conscious efforts to frame conclusions that can be submitted to some type of "truth test". In contrast, Franck's *The Power of Legitimacy Among Nations* sets forth a theory that is so loose that it is not capable of falsification in the social scientific sense. Instead, it is a prescriptive work advocating that rule of law principles should play a central role in the conduct of international relations.

The first comparative issue concerns what, if anything, is gained by comparing works of theory with non-theoretical prescription? Franck's effort is a rare attempt by an international law scholar to bring social science theory to bear on his thinking. Thus, if the "bridging" that some assert is possible between international law and international relations scholarship can occur, one should at least be able to *attempt* bridging between Keohane, Haas and Franck. Bridging in the strict sense, connecting theories with explanations directed at different levels of analysis, cannot be attempted simply because there are not truly three 'theories' to bridge, and particularly because Franck has no clear conception of what level of analysis his 'theory' is focused on. However, if 'bridging' is used more loosely, as a cross-disciplinary comparative exercise to illuminate the strengths and weaknesses of the authors' respective approaches, then it is possible to bridge these works.

Keohane's and Franck's work offer the greatest potential for useful comparison since the same core question animates both authors' inquiries: How does one explain how and why international rules come to be habitually obeyed by nation-states despite the absence of a hegemon (Keohane) or a sovereign (Franck)? However, the question arises as to whether anything is gained by comparing Keohane's approach, which relies on exogenously determined criteria relating to actor "rationality" and "self-interest," with Franck's more inter-

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61. In political science literature, the term 'black-boxing' the state refers to theoretical approaches in which no analysis is given of the domestic determinants of a state's behavior as an international actor. HOLLIS & SMITH, *supra* note 60, at 198-99.

62. *See supra* note 60 and accompanying text.

pretative, or sociological, approach that looks to the purposes and meanings the actors attach to the rule structure. Are these authors making the same points, but only using different analytical avenues to reach the same conclusions? Or, does comparing their approaches provide a more complete pre-theoretical framework with which to consider the phenomenon of cooperation in international relations? Both authors' analyses show that it is in the states' self-interest to have international relations governed by a system of rules. And, in the absence of a hegemon, or sovereign, it is possible for states to be mutually restrained and to abide by an agreed rule structure whenever they perceive that a long-term gain of co-existence is furthered, even if this may preclude short-run gains that could be achieved by violating a norm and defecting from a rule structure.

Keohane's "functional theory" has been found especially useful for specifying when regimes are needed, but not particularly useful for providing insight on the issue of how and when they will be produced.[63] Here, Franck's focus on the development of international rules according to the state actor's conception of right process may supplement Keohane's theory, i.e., regimes that are produced according to the actors' subjective understanding of the right process will be perceived as legitimate and exert a "compliance pull" on states. Further, Franck's inquiry analyzes how the quality of a regime's rules will impact its effectiveness as a system of rules, an issue not touched by Keohane's theory.

Franck's work does point to ways in which one could develop a better understanding of the regime participant's Hartian "internal point of view."[64] However, as presently articulated, Franck's approach is not equipped to deliver on its promises. Franck's weakness stems from his portrayal of states as unitary actors. Moreover, his unit level analysis is in need of a decision-making theory. As Haas points out in *Beyond the Nation-State*, decision-making theory in national studies are useful for verifying to what extent "actors" have in fact "internalized" the rules of the system of which they are assumed to be part.[65]

Franck's approach has additional weaknesses that Keohane's theory illuminates. Franck's work begins with the notion that where there is state behavior that conforms with a legal rule, the legal rule must be operating to guide state behavior. Franck is very sparse on alternative, extra-legal explanations for why state action may conform with a legal rule. Here, Keohane's theoretical discussions of the operation of self-interested actors in a market setting may curb some of the excesses of Franck's legalistic approach.

KEOHANE AND HAAS AND THE ADDITIVITY PROBLEM

A remaining question is whether the works of Keohane and Haas can be aggregated to produce a theory explaining how cooperation among states relates to the development of "international community". "Community" can be considered a core concept of both of their works, around which it may be possible to aggregate their theories. In Keohane's theory, "regimes" are community-like,

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63. *See* Haggard & Simmons, *supra* note 6 at 506-07.
64. *See supra* note 56 (introducing and discussing H.L.A. Hart's "internal point of view").
65. HAAS, *supra* note 2, at 55.

by virtue of the sense of belongingness that states may derive from a rule struc-
ture and the value they attach to its continuation. This instrumental concept of
community is premised on Hobbesian insights—that rules among egoists are
better than no rules, and that rule systems are difficult to produce, so there may
be value in perpetuating a rule system even if the situation giving rise to the rule
system no longer holds. For Haas, "community formation" is relevant to his
study of systemic change, as a factor that increases the prospects that states will
come to understand their interest as a function of "international loyalties" rather
than "national loyalties". Bringing these theories together could potentially
broaden our understanding of the possible causal relationship between the pro-
cess of community formation and the effectiveness of community norms to an-
swer such questions as whether the way in which a "community," or regime, is
formed impacts the effectiveness of the community rules meant to constrain or
guide state behavior?

But the potential for further aggregation of Keohane's and Haas' theories is
slim. An effort in bridging or additivity would most likely flounder due to the
dramatically different ways the authors use causation in their theories. For Keo-
hane, structure is the key causal agent that explains actor behavior while causa-
tion is used to present a functional explanation of why states participate in
regimes. Keohane's is not a theory of systemic change, but rather a theory that
seeks to predict how actors will behave given particular systemic constraints.
The choice of organizing concepts, ideas, and metaphors in his "functional the-
ory of cooperation" are all premised on exogenously determined, imputed as-
sumptions of how state actors "perceive" their options and interests under given
circumstances. Thus, Keohane's chief interest is in explaining what causes co-
operation in a given structural setting.

Conversely, Haas' theory of system change describes causality as a combi-
nation of intentional and functional logic. The theory has an evolutionary aspect
in that he defines "integration" as "a process that links a given concrete interna-
tional system with a dimly discernable future one."[66] Thus, he is interested in
how actor perceptions of interest and actor learning cause systemic change in
international relations. Much like Keohane, he asserts that "cooperation" among
groups is the result of a convergence of separate perceptions of interest, and not
a surrender to the myth of the common good.[67] However, contrary to Keohane,
Haas' central aim is to identify non-systemic explanations for how these inter-
ests emerge and to understand how patterns of convergent actor interests can, at
times, change the "structure" of the international system.

Thus, the stipulated core concept of "international community" cannot
unite Keohane's and Haas' theories into a single meta-theory. The different use
of causation in their theories highlights the fact that, despite sharing "coopera-
tion" as a subject of inquiry, their differing perceptions of the causal role of
structure in the formation of actor preferences make it difficult to combine their
insights.

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66. *Id.* at 29.
67. KEOHANE, *supra* note 1, at 34.